

Appl. No. 10/721,877
Amendment dated: September 11, 2006
Reply to OA of: March 10, 2006

REMARKS

This is in response to the Official Action of March 10, 2006, in connection with the above-identified application. Applicant has amended the claims of the instant application in order to more precisely define the scope of the present invention, taking into consideration the outstanding Official Action and the comments made during the telephone interview conducted with the Examiner in charge of the instant application on August 3, 2006.

Applicant acknowledges with appreciation the courtesy of the interview extended to the Applicant's representative by Examiner Peng, the Examiner in charge of this application. Prior to the telephone interview, Applicant faxed to the Examiner a proposed amendment which Applicant hoped would place the application in condition allowance if submitted, entered and considered. Specifically, the submitted amendment proposed that claim 1 be amended to read that R_2 is selected from the group consisting of the residue of the cholic acid, the residue of the fatty acid, the residue of the folic acid and the residue of cholesterol. After considering the proposed Amendment and the specification of the instant application, the Examiner first noted that the specification did not appear to support the term "residues of" and therefore suggested that these terms not be introduced into the claims. Accordingly, Applicant has refrained from using this terminology in the amendment to the claims presented herein.

The Examiner provided other helpful suggestions during the telephone interview, which Applicant has attempted to incorporate into the claims. Firstly, the Examiner suggested that the phrase "wherein R_1 is hydrogen, or $-C(=O)-R_2$ " in claim 1 be reduced to "wherein R_1 is $-C(=O)-R_2$ " and further stressed that it was important that the recitation that R_1 is $-C(=O)-R_2$ in claim 1 be retained to make it clear how groups attach to the block co-polymer. Accordingly, Applicant has adopted this suggestion.

The Examiner also suggested that if the subject matter of claim 2 were to be incorporated into claim 1, that Applicant should not include cholesterol amongst the group from which R_2 may be selected, since, in the opinion of the Examiner, it is unclear from the claims and the specification how the cholesterol would join with the block co-

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polymer. Accordingly, Applicant has amended claim 1 to incorporate the limitation of claim 2, with the exception that cholesterol has not been included in the group from which R_2 may be selected.

In addition to these amendments to claim 1, Applicant has made further amendments to the claims which reflect the changes made to claim 1. Firstly, claims 2, 3, 6 and 7 have been cancelled from the application without prejudice or disclaimer. Applicants reserve the right to file a continuation application or continuation applications directed to this cancelled subject matter. Claim 5 has been amended so as not to conflict with amended claim 1 and claim 8 has been amended to depend from claim 1 rather than from now cancelled claim 2. Applicant respectfully submits that none of these amendments to the claims introduce new matter into the application and all claims now pending in the instant application comply with the requirements of 35 U.S.C. §112.

Applicant acknowledges with appreciation the indication in the outstanding Official Action that claims 2, 3 and 8 would be allowable if rewritten in independent format including all of the limitations of the base claim and any intervening claims. In light of this indication of allowable subject matter, Applicant has incorporated the subject matter recited in claim 2 into claim 1 as described above. Applicant now respectfully submits that claim 1 and all claims depending therefrom are in immediate condition for allowance.

Turning now to the objections and rejections set forth in the outstanding Official Action, Applicant first notes the objection to claims 6 and 7 as failing to identify the type of molecular weight recited. Applicant has canceled claims 6 and 7 from the instant application and therefore respectfully submits that this objection has been rendered moot. Accordingly, Applicant respectfully requests that this objection be withdrawn.

The rejection of claim 1, 4-7 and 10 under 35 U.S.C. §102(e) as being anticipated by Seo et al. (US Patent No. 6,616,941) has been carefully considered but is most respectfully traversed in light of the amendments to the claims and the following comments.

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As described above, claim 1 has been amended to incorporate the subject matter recited in claim 2. As claim 2 has not been included in the §102(e) rejection and the Official Action has also expressly recognized that claim 2 recites allowable subject matter, Applicant respectfully submits that the incorporation of claim 2 into claim 1 obviates the §102(e) rejection over Seo. Accordingly, Applicant respectfully submits that because Seo fails to disclose each and every limitation of the claimed invention, a proper §102(e) rejection according to the guidelines set forth in MPEP §2131 has not been established and should therefore be withdrawn.

Further, as claims 4, 5 and 10 all depend from claim 1 and therefore include all of the limitations recited in claim 1, Applicant respectfully submits that these claims are also patentable over the references of record. Accordingly, Applicant respectfully requests that the rejection of claims 4, 5 and 10 over Seo be withdrawn.

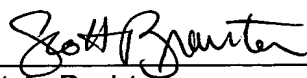
Finally, Applicant again notes that while claim 1 has been amended to incorporate the subject matter originally recited in claim 2, Applicant has not amended claim 1 to include cholesterol amongst the group from which R_2 may be selected in order to avoid the indefiniteness issues the Examiner suggested may be raised by its inclusion.

However, Applicant has retained the recitation of cholic acid, fatty acid and folic acid amongst the group from which R_2 may be selected. With respect to fatty acid, Applicant respectfully submits that the specification as originally filed clearly supports its inclusion. Specifically, Applicant directs attention to Example 2 in the specification as disclosing how fatty acid may be R_2 . In light of this amendment to the claim and the indication of allowable subject matter in the outstanding Official Action, Applicant respectfully submits that the claims presented herein are patentable over the references of record and are in immediate condition for allowance.

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In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all of the claims now present in the application are most respectfully requested.

Respectfully submitted,
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